



This document is scheduled to be published in the Federal Register on 07/17/2015 and available online at <http://federalregister.gov/a/2015-17507>, and on FDsys.gov

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0159, Notice 2]

Decision That Nonconforming 2006-2010 BMW M3

Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT)

ACTION: Grant of petition

SUMMARY: This document announces a decision by the National Highway Traffic Safety Administration that certain 2006-2010 BMW M3 passenger cars (PCs) that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for sale in the United States that were certified by their manufacturer as complying with all applicable FMVSS (the U.S. certified version of the 2006-2010 BMW M3 PC), and they are capable of being readily altered to conform to the standards.

DATES: This decision became effective on July 13, 2015.

ADDRESSES: For further information contact George Stevens,
Office of Vehicle Safety Compliance, NHTSA (202-366-5308).

SUPPLEMENTARY INFORMATION:Background

Under 49 U.S.C 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified as required under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

US Specs, of Havre de Grace, Maryland (Registered Importer 03-321), petitioned NHTSA to decide whether 2006-2010 BMW M3 PCs are eligible for importation into the United States. NHTSA

published a notice of the petition on December 28, 2012 (77 FR 76598) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

COMMENTS:

On January 28, 2013, J.K. Technologies, LLC (JK), another Registered Importer, submitted comments on the petition. In its comments, JK expressed the belief that the petition contained several omissions and errors.

On May 20, 2013, US Specs responded, in part, to JK's comments by submitting to NHTSA a revised listing of parts associated with FMVSS No. 208 compliance.

On October 21, 2013, NHTSA informed US Specs by letter that the parts listing it submitted appeared to only partially address the comments made by JK. The agency offered US Specs the opportunity to further address JK's comments.

On December 2, 2013 US Specs submitted further comments and parts information to NHTSA.

A summary of JK's comments, US Specs' responses, and the conclusions that NHTSA has reached with regard to the issues raised by those parties is set forth below.

COMMENTS, CONCLUSIONS AND CONDITIONS:

JK commented that the software alterations necessary to conform the vehicles to FMVSS No. 114 *Theft Protection and Rollaway Prevention* may also require replacement of the CAS (theft prevention electronic control unit or "ECU") hardware because some versions of the European CAS units will not accept U.S.-model programming.

US Specs responded: "Each vehicle will need to be inspected on a case-by-case basis to see that they contain US parts. The US parts will be installed if not already so equipped. The Digital Motor Electronics and Car Access System control unit will be replaced and programmed as necessary."

JK also commented that US Specs did not include in its description of modifications needed to conform the vehicles to FMVSS No. 208 *Occupant Crash Protection* the need to replace the following components with U.S.-model components: driver's airbag, front acceleration sensors (including front body wiring harness and mounting hardware), front door sensors (including center body wiring harness and mounting hardware), and rear seat belts. JK also commented that the system ECU's will have to be reprogrammed and may require replacement.

US Specs responded by submitting additional parts lists and diagrams and by stating: "Each vehicle will need to be inspected on a case-by-case basis to see if they contain the US-model

parts. The US-model parts will be installed if a vehicle is not already so equipped. The Digital Motor Electronics and Car Access System control units will also be replaced and reprogrammed as necessary."

JK also commented that in order for the vehicle to be conformed to FMVSS No. 301 *Fuel System Integrity*, the following U.S.-model parts would have to be substituted for those originally equipped on the vehicle: fuel tank, filler neck, all fuel and vapor lines, and vapor storage canister.

US Specs responded by stating that BMW uses many of the same components for multiple vehicles worldwide. US Specs further stated that each vehicle will need to be inspected on a case by case basis to see if it contains the US-model parts and that US-model parts will be installed on vehicles not already so equipped. US Specs also provided additional parts lists and diagrams.

After reviewing the petition, JK's comments and US Specs' responses to those comments, NHTSA has concluded that the vehicles covered by the petition are capable of being readily altered to comply with all applicable FMVSS. However, in light of JK's comments and consistent with recent decisions that the agency has made in granting several import eligibility petitions for late-model vehicles (See Docket Numbers: NHTSA-2013-0107, NHTSA-2013-0108, and NHTSA-2014-0004), NHTSA has decided that

an RI who imports or modifies the subject vehicles must include a detailed description of all modifications it makes to achieve conformity with applicable FMVSS in each statement of conformity with supporting documents (referred to as a "conformity package") it submits to NHTSA under 49 CFR part 592.6(d). The description of the alterations must include: identification of all parts removed and installed, how software programming changes were completed, and how compliance was verified after alterations were performed. The descriptions must be accompanied by photographs of the software installation and testing systems used, as well as printouts and/or screenshots of their displays showing successful software installation or reports indicating such results.

With regard to FMVSS No. 208, NHTSA has decided that each conformity package must also include a detailed description of the occupant protection system in place on the vehicle at the time it was delivered to the RI, and a similarly detailed description of the occupant protection system in place after the vehicle is altered, including photographs of all labeling required by FMVSS No. 208. The description must also include parts assembly diagrams.

Should an RI decide to alter the vehicles to conform to FMVSS No. 138, *Tire Pressure Monitoring Systems* by adding TPMS system, it must submit a test report verifying that the vehicle

meets the requirements of the standard with the system installed or refer to such a test report previously submitted to verify that the installed system allowed a vehicle of the same make, model, and model year to achieve conformity with FMVSS No. 138.

In addition to the information specified above, each conformity package must include information showing how the RI verified that the changes it made in loading or reprogramming vehicle software to achieve conformity with each individual FMVSS did not cause the vehicle to fall out of compliance with any other applicable FMVSS.

DECISION:

Accordingly, on the basis of the foregoing, NHTSA hereby decides that MY 2006-2010 BMW M3 passenger cars that were not originally manufactured to comply with all applicable FMVSS are substantially similar to 2006-2010 BMW M3 PCs manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable Federal Motor Vehicle Safety Standards.

VEHICLE ELIGIBILITY NUMBER FOR SUBJECT VEHICLES:

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the

vehicle is eligible for entry. VSP-571 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey Giuseppe, Director,
Office of Vehicle Safety Compliance.

Billing Code: 4910-59-P

[FR Doc. 2015-17507 Filed: 7/16/2015 08:45 am; Publication Date: 7/17/2015]